

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION

Trenton Edward Pope, :
Petitioner(s), : Case Number: 1:11cv866
vs. : Chief Judge Susan J. Dlott
Warden, Pickaway Correctional Institution, :
Respondent(s). :

ORDER

This matter is before the Court pursuant to the Order of General Reference in the United States District Court for the Southern District of Ohio Western Division to United States Magistrate Judge Stephanie K. Bowman. Pursuant to such reference, the Magistrate Judge reviewed the pleadings and filed with this Court on November 29, 2012 a Report and Recommendation (Doc. 13). Subsequently, the petitioner filed objections to such Report and Recommendation (Doc. 17) and the respondent filed a response (Doc. 18).

The Court has reviewed the comprehensive findings of the Magistrate Judge and considered de novo all of the filings in this matter. Upon consideration of the foregoing, the Court does determine that such Recommendations should be adopted.

Accordingly, petitioner's petition for a writ of habeas corpus filed pursuant to 28 U.S.C. § 2254 (Doc. 2) is **DENIED** with prejudice.

A certificate of appealability will not issue with respect to the two grounds for relief alleged in the petition, which are addressed on the merits, in the absence of a substantial showing that petitioner has stated a “viable claim of the denial of a constitutional right” or that the issues presented are “adequate to deserve encouragement to proceed further.”

See Slack v. McDaniel, 529 U.S. 473, 475 (2000) (citing *Barefoot v. Estelle*, 463 U.S. 880, 893 & n.4 (1983)); *see also* 28 U.S.C. §2253(c); Fed R. App. P. 22(b).

In addition, a certificate of appealability will not issue to the extent petitioner has alleged claims in Ground Two, which this Court has concluded are procedurally barred from review based on petitioner's procedural defaults in the state courts. Under the first prong of the applicable two-part standard enunciated in *Slack*, 529 U.S. at 484-485, "jurists of reason" will not find it debatable whether this Court is correct in its procedural rulings.

With respect to any application by petitioner to proceed on appeal *in forma pauperis*, the Court will certify pursuant to 28 U.S.C. § 1915(a)(3) that an appeal of any Order adopting the Report and Recommendation will not be taken in "good faith," and therefore, **DENY** petitioner leave to appeal *in forma pauperis* upon any showing of financial necessity. *See* Fed. R. App. P. 24(a); *Kincade v. Sparkman*, 117 F.3d 949, 952 (6th Cir. 1997).

IT IS SO ORDERED.

s/Susan J. Dlott
Chief Judge Susan J. Dlott
United States District Court